

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION**

CASE NO.: 2:23-cv-04400

MINDEN PICTURES, INC.,

Plaintiff,

v.

ESF, INC.,

Defendant.

**COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff MINDEN PICTURES, INC. by and through its undersigned counsel, brings this Complaint against Defendant ESF, INC. for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff MINDEN PICTURES, INC. (“MPI”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute MPI’s original copyrighted Work of authorship.

2. MPI is recognized as the premier provider of rights managed wildlife and nature stock photos and feature stories. MPI’s collection covers key aspects of natural history, ecology, biodiversity, and endangered species from all continents including many remote and isolated regions. MPI also features images of human interaction with the natural world highlighting natural science research, conservation, environmental issues, indigenous peoples, and eco travel.

3. Defendant ESF, Inc. (“ESF”) is a company that runs summer camps for children. They pride themselves as “The Gold Standard of Camps” and offer many types of sports,

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technology, and arts camps for children in preschool to twelfth grade. At all times relevant herein, ESF owned and operated the internet website located at the URL www.esfcamps.com (the “Website”).

4. MPI alleges that ESF copied MPI’s copyrighted Work from the internet in order to advertise, market and promote its business activities. ESF committed the violations alleged in connection with ESF’s business for purposes of advertising and promoting sales to the public in the course and scope of the ESF’s business.

JURISDICTION AND VENUE

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Defendant are subject to personal jurisdiction in Pennsylvania.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Defendant resides in this district, and Defendant are subject to personal jurisdiction in this district.

DEFENDANT

9. ESF is a New Jersey Corporation, with its principal place of business at 750 E Haverford Rd., Bryn Mawr, PA 19010, and can be served by serving the Corporation at the same address.

THE COPYRIGHTED WORK AT ISSUE

10. In 2007, Christian Ziegler created the photograph entitled “00760029”, which is shown below and referred to herein as the “Work”.



11. At all relevant times, MPI owned all relevant exclusive rights to the Work, including but not limited to the right to enforce the copyright against unauthorized use, past present and future, by written agreement from Christian Ziegler

12. MPI and Christian Ziegler registered the Work with the Register of Copyrights on January 16, 2009 and was assigned the registration number VA 1-702-516. The Certificate of Registration is attached hereto as Exhibit 1.

13. MPI's Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

INFRINGEMENT BY DEFENDANT

14. ESF have never been licensed to use the Work at issue in this action for any purpose.

15. On a date after the Work at issue in this action was created, but prior to the filing of this action, ESF copied the Work.

~~16.~~ On or about January 25, 2021, MPI discovered the unauthorized use of its Work on the Website. The Work was used on the Website about what campers did at camp that day, and asking people to stay tuned for more bird-related activities.

~~17.~~ ESF copied MPI's copyrighted Work without MPI's permission.

~~18.~~ After ESF copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its summer camp business.

~~19.~~ ESF copied and distributed MPI's copyrighted Work in connection with ESF's business for purposes of advertising and promoting ESF's business, and in the course and scope of advertising and selling products and services.

~~20.~~ MPI's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

~~21.~~ ESF committed copyright infringement of the Work as evidenced by the documents attached hereto as Exhibit 2.

~~22.~~ MPI never gave ESF permission or authority to copy, distribute or display the Work at issue in this case.

~~23.~~ MPI notified ESF of the allegations set forth herein on August 9, 2021 and August 25, 2021. To date, ESF have failed to respond to Plaintiff's Notices.

COUNT I COPYRIGHT INFRINGEMENT

~~24.~~ MPI incorporates the allegations of paragraphs 1 through 23 of this Complaint as if fully set forth herein.

~~25.~~ MPI owns a valid copyright in the Work at issue in this case.

~~26.~~ MPI registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

27 ESF copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without MPI's authorization in violation of 17 U.S.C. § 501.

28 ESF performed the acts alleged in the course and scope of its business activities.

29 ESF's acts were willful.

30 MPI has been damaged.

31 The harm caused to MPI have been irreparable.

WHEREFORE, the Plaintiff Minden Pictures, Inc. prays for judgment against the Defendant ESF Inc. that:

a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendant be required to pay Plaintiff its actual damages and ESF's profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

c. Plaintiff be awarded its attorneys' fees and costs of suit under the applicable statutes sued upon;

d. Plaintiff be awarded pre- and post-judgment interest; and

e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: November 9, 2023

Respectfully submitted,

/s/Joseph A. Dunne

JOSEPH A. DUNNE

PA Bar Number: 325562
joseph.dunne@sriplaw.com

SRIPLAW, P.A.
175 Pearl Street
Third Floor
Brooklyn, NY 11201
929.200.2474 – Telephone
561.404.4353 – Facsimile

Counsel for Plaintiff Minden Pictures, Inc.